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Published in:

The Politics of Counsel in England and Scotland, 1286-1707

DOI:

[10.5871/bacad/9780197266038.003.0010](https://doi.org/10.5871/bacad/9780197266038.003.0010)

Publication date:

2016

Document Version

Peer reviewed version

[Link to publication in Discovery Research Portal](#)

Citation for published version (APA):

MacDonald, A. (2016). Consultation, Counsel, and the 'early Stuart period' in Scotland. In J. Rose (Ed.), *The Politics of Counsel in England and Scotland, 1286-1707* (Proceedings of the British Academy). British Academy. <https://doi.org/10.5871/bacad/9780197266038.003.0010>

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Final text submitted for publication in Proceedings of the British Academy. For final published version see *The Politics of Counsel in England and Scotland, 1286 -1707*, ed. Jaqueline Rose, Proceedings of the British Academy 2016 (Oxford: Oxford University press).

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Consultation, Counsel and the ‘Early Stuart Period’ in Scotland

ALAN R. MACDONALD

The early Stuart period is firmly established in English historiography as a label for the period from 1603 to *circa* 1640. It implies that there was, between the death of Elizabeth I and the outbreak of the mid-century wars, a single political phase within which the transition from James I to Charles I is subsumed. The key divisions are the rise of Buckingham and the outbreak of European warfare in the late 1610s, and the opening of Charles’s ‘Personal Rule’ in 1629.¹ In Scotland, while some have recently questioned it, 1625 endures as the principal watershed. Accounts of James’s reign tend to compare him favourably with his son, while works on Charles nod towards his father’s reign, ruefully observing that, while there may have been some tensions under James, what was to follow was in a different league of

¹ For recent examples of this enduring periodisation, see D. Hirst, *England in Conflict, 1603-1660* (London, Arnold, 1999), and *Dominion: England and its Island Neighbours, 1500-1707* (Oxford, Oxford University Press, 2012); D. L. Smith, *A History of the Modern British Isles, 1603-1707* (Oxford, Blackwell, 1998); M. Kishlansky, *A Monarchy Transformed: Britain, 1603-1714* (London, Penguin, 1996). It is not a universal view: see D. Starkey *et al.*, *The English Court: From the Wars of the Roses to the Civil War* (Harlow, Longman, 1987), covering the reigns of James and Charles separately.

failure.² That early modern monarchy, especially in Scotland, was ‘personal monarchy’ goes some way to explaining this: a change of ruler could easily alter the political landscape. It

² M. Lee, *Government by Pen: Scotland under James VI and I* (Urbana, University of Illinois Press, 1980); M. Lee, *The Road to Revolution: Scotland under Charles I, 1625-1637* (Urbana, University of Illinois Press, 1985); M. Lee, *Great Britain's Solomon: James VI and I in his Three Kingdoms* (Urbana, University of Illinois Press, 1990). See also A. I. Macinnes, *Charles I and the Making of the Covenanting Movement, 1625-1641* (Edinburgh, John Donald, 1991); P. Donald, *An Uncounselled King: Charles I and the Scottish Troubles, 1637-41* (Cambridge, Cambridge University Press, 1990); A. R. MacDonald, *The Jacobean Kirk, 1567-1625: Sovereignty, Polity and Liturgy* (Aldershot, Ashgate, 1998); J. Goodare, *The Government of Scotland, 1560-1625* (Oxford, Oxford University Press, 2004), and *State and Society in Early Modern Scotland* (Oxford, Oxford University Press, 1999), which focuses on 1560 to 1625, with detailed analysis explicitly not extending to 1638; G. Donaldson, *Scotland: James V-James VII* (Edinburgh, Oliver and Boyd, 1965); J. Wormald, *Court, Kirk and Community: Scotland, 1470-1625* (Edinburgh, Arnold, 1981); R. Mitchison, *Lordship to Patronage: Scotland, 1603-1745* (Edinburgh, Arnold, 1983); M. Lynch, *Scotland: A New History* (London, Century, 1991). Some recent studies of high politics do straddle 1625: K. M. Brown's *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh, Edinburgh University Press, 2011), and his *Kingdom or Province? Scotland and the Regal Union, 1603-1715* (London, MacMillan, 1992); Laura Stewart, *Urban Politics and the British Civil Wars: Edinburgh, 1617-53* (Leiden, Brill, 2006); A. Macinnes's *Clanship, Commerce and the House of Stewart, 1603-1788* (East Linton, Tuckwell Press, 1996) discussed Highland policy in the 1603-38 timeframe, while his ‘Regal Union for Britain, 1603-1638’, in

also highlights the central role of counsel. Although personal monarchy has been described as ‘an institutional concept’ that refers to ‘a polity in which many organs of the state operated in the name of the crown alone’,³ it is more generally regarded as encapsulating the political significance of the personality, accessibility and active involvement of the monarch in day-to-day government. Since monarchs had ultimate responsibility for decision-making, mechanisms for counsel-giving were crucial to the functioning of government.⁴ In this context, 1603 provides a good test case for examining the interplay of the monarch’s personality and mechanisms for counsel, for in 1603 England acquired a new king while Scotland’s processes of counsel underwent profound change. For Scotland, as much as for England, 1603 ought to be regarded as a more significant epoch than 1625, as Julian Goodare has argued.⁵ The traditional view still has its champions, though, with Jenny Wormald the

G. Burgess (ed.), *The New British History: Founding a Modern State, 1603-1715* (London, I. B. Tauris, 1999) similarly downplays 1625.

³ Goodare, *Government of Scotland*, p. 107.

⁴ This view is shared by those who work on England: see K. Sharpe, ‘Crown, Parliament and Locality: Government and Communication in Early Stuart England’, *English Historical Review*, 101 (1986), 321-50, at 326, which also underlines English perceptions of the two reigns as a single period.

⁵ J. Goodare, ‘Charles I: A Case of Mistaken Identity II’, *Past & Present*, 205 (2009), 189-201, at 199-201, where he argues that ‘Charles generally continued his father’s policies’; see also S. Adams and J. Goodare, ‘Scotland and its Seventeenth-Century Revolutions’, in Adams and Goodare (eds), *Scotland in the Age of Two Revolutions* (Woodbridge, Boydell, 2014), pp. 1-22, at p. 3.

most prominent critic of those who highlight continuities between James and Charles.⁶ To be sure, it was not all downhill to the Covenant from the moment James crossed the Tweed in April 1603. Yet that journey was pivotal in terms of how counsel was given and received, and the changes that it wrought in the conduct of government laid the foundations for his son's reign.

By focusing particularly upon institutional contexts for advice-giving, this chapter examines the changes in 1603 and 1625, using counsel as a means of evaluating their relative significance. It first surveys the different bodies through which advice could be provided to the king and his privy council, examining the frequency and indeed increase in their use in the years leading up to 1603, before demonstrating how they withered in the aftermath of union. It then homes in on the moment of transition in 1625, using one Scottish noble's correspondence to demonstrate contemporary recognition of the problems of absentee monarchy stemming from James's departure to England.

I

The pre-union government of James VI epitomises the characterisation of 'personal monarchy' given above: direct and active royal involvement in daily government. This can be seen most clearly through the functioning of parliament, conventions of the estates, the general assembly and the convention of royal burghs, as well as in the less institutional

⁶ J. Wormald, 'The Headaches of Monarchy: Kingship and the Kirk in the Early Seventeenth Century', in J. Goodare and A. A. MacDonald (eds), *Sixteenth-Century Scotland: Essays in Honour of Michael Lynch* (Leiden, Brill, 2008), pp. 366-8.

context of the court.⁷ All of these show a king committed to broad and increasing consultation through a variety of mechanisms.

The peerage expected personal access to the king. That was not always guaranteed, as certain individuals (notably Francis Stewart, earl of Bothwell) might exclude themselves, while Keith Brown and Julian Goodare have shown how factional disputes also disrupted access.⁸ In spite of that, Brown's overall assessment that 'every earl and lord could attend court and gain access to the king' is borne out by an English visitor in 1601 who was struck by its relaxed and accessible nature.⁹ While the openness of the court was a key context in which counsel was given and received, for those (noblemen and others) who rarely attended or found themselves excluded by factional contests, conventions of estates and parliaments provided Eltonian 'points of contact' between the king and would-be counsellors.¹⁰

⁷ The privy council is not examined in detail here because it was the only conciliar institution largely unaffected by the union, maintaining communication through voluminous correspondence with the king: see A. R. MacDonald, 'Consultation and Consent under James VI', *Historical Journal*, 54 (2011), 287-306, at 295-8.

⁸ Brown, *Noble Power*, ch. 7, esp. pp. 183-6, 190, 202, 207; J. Goodare, 'The Attempted Scottish Coup of 1596', in Goodare and MacDonald (eds), *Sixteenth-Century Scotland*; R. Macpherson, 'Stewart, Francis, first earl of Bothwell (1562-1612)', *ODNB* [<http://www.oxforddnb.com/view/article/12999>, accessed 16 Dec 2014].

⁹ P. Croft, *King James VI* (Basingstoke, Palgrave Macmillan, 2003), p. 46; Brown, *Noble Power*, p. 207.

¹⁰ G. R. Elton, 'Tudor Government: The Points of Contact', in G. R. Elton, *Studies in Tudor and Stuart Politics and Government*, 4 vols (Cambridge, Cambridge University Press, 1983), III, 3-57.

Crucially, these institutions offered fallbacks or guarantees of some channels of communication even if the king closed off other, courtly, routes of access. In Scotland, the sovereignty of the king-in-parliament was not a constitutional abstract but a reality, for monarchs attended all meetings of the estates, even participating in the work of the parliamentary drafting committee, the lords of the articles.¹¹ While parliament was in session, and in its ceremonial processes, the crown was not worn but was carried and set in the middle of the chamber along with the other symbols of sovereignty, the sword of state and sceptre.¹² James VI was therefore both right and wrong when he described parliament as merely ‘the head courte of the King, and his vassals’: right because of the fundamentally feudal nature of parliament and his place in it; wrong because his description implied a more absolute authority than he actually possessed.¹³ Symbolically and practically, parliament epitomised

¹¹ *Calendar of the State Papers Relating to Scotland and Mary Queen of Scots, 1547-1603*, ed. J. Bain *et al.*, 13 vols (London, HMSO, 1898-1969; henceforth, *CSP Scot.*), II, 11; *History of the Kirk of Scotland by Mr D. Calderwood*, ed. T. Thomson, 8 vols (Edinburgh, Wodrow Society, 1842-9), V, 492; *RPS*, 1617/5/12; A. R. MacDonald, ‘Deliberative Processes in Parliament c.1567-1639: Multicameralism and the Lords of the Articles’, *Scottish Historical Review* (henceforth, *SHR*), 81 (2002), 23-51; R. J. Tanner, ‘The Lords of the Articles before 1540: A Reassessment’, *SHR*, 79 (2000), 189-212.

¹² A. R. MacDonald, *The Burghs and Parliament in Scotland, c.1550-1651* (Aldershot, Ashgate, 2007), pp. 155-6.

¹³ See ‘The True Lawe of Free Monarchies’, in *Minor Prose Works of King James VI and I*, ed. J. Craigie (Edinburgh, Scottish Text Society, 1982), p. 71. For discussion of what James *thought* about parliament, see J. H. Burns, ‘Political Ideas and Parliament’, in K. M. Brown and A. R. MacDonald (eds), *The History of the Scottish Parliament, Volume 3: Parliament in*

shared sovereignty and, under James VI, the sharing of sovereignty through consultative decision-making intensified, with seven parliaments and nearly 50 conventions of the estates between 1585 and 1603.¹⁴ While James's predecessors had met regularly with the estates, this was an unprecedented level of formal consultation. Perhaps it was born of a desire to avoid the political instability of his formative years, beginning in civil war and ending in a series of aristocratic *coups*.¹⁵ Yet, in contrast to previous transitions from minority to adult monarchy,¹⁶ the frequency of consultation did not abate as political stability grew between 1585 and 1603. At the same time as James was declaring, in *The True Lawe of Free Monarchies* and *Basilikon Doron*, that the estates were subordinate to the monarch and should meet as infrequently as possible, he was not practising what he preached.

While the frequency of conventions of the estates before 1603 has long been acknowledged, its implications have not been fully appreciated, perhaps because they have been regarded as more narrowly constituted than they really were.¹⁷ Since conventions did not require a general summons, it has been supposed that the king would invite only those

Context 1235-1707 (Edinburgh, Edinburgh University Press, 2009), pp. 233-4, and J. H.

Burns, *The True Law of Kingship: Concepts of Monarchy in Early Modern Scotland* (Oxford, Oxford University Press, 1996), pp. 229-30, 237.

¹⁴ MacDonald, 'Consultation and Consent', 291.

¹⁵ See R. Tanner, *The Late Medieval Scottish Parliament: Politics and the Three Estates, 1424-1488* (East Linton, Tuckwell Press, 2001), esp. conclusion, suggesting meetings of the estates were at least annual during the fifteenth century.

¹⁶ See nn. 33-4 below.

¹⁷ Wormald, *Court, Kirk and Community*, p. 157.

amenable to royal policy.¹⁸ Yet their stout resistance to requests for taxation in the later 1590s suggests otherwise and, when attendance was thin, those present refused to make important decisions, insisting on a more well-attended assembly.¹⁹ It was essential to summon a cross-section of those that mattered, for the decisions of an unrepresentative convention would have lacked authority. James therefore had to balance his desire to gain conventions' counsel and consent for his aims, and the need to maintain the credibility of this conciliar consent-giving process.

As well as presiding over an unprecedented intensification of formal consultation, James VI also undertook a significant extension of those consulted. The introduction of shire representation in parliament after 1587 has been discussed in terms of the rise of the middling sort, the emergence of a gentry class and an absolutist state's drive to undermine the peerage.²⁰ It was also part of a policy of broadening the pool of counsellors. Untitled nobles had attended parliaments and conventions before, but neither regularly nor in significant numbers since the emergence of a parliamentary peerage in the fifteenth century, with the

¹⁸ Donaldson, *Scotland: James V-James VII*, p. 287.

¹⁹ J. Goodare, 'Parliamentary Taxation in Scotland, 1560-1603', *SHR*, 68 (1989), 23-52, at 43-5; *CSP Scot.*, X, 148-50.

²⁰ See J. Goodare, 'The Nobility and the Absolutist State in Scotland, 1584-1638', *History*, 78 (1993), 161-82; Goodare, *State and Society*; Goodare, *Government of Scotland*; K. M. Brown's *Noble Society in Scotland: Wealth, Family and Culture in Scotland from the Reformation to the Revolution* (Edinburgh, Edinburgh University Press, 2000) and *Noble Power*; for the rise of the middling sort, see Lynch, *Scotland*, ch. 15, esp. pp. 252-3.

extreme exception of the Reformation parliament of 1560.²¹ The advent of shire commissioners was a genuine departure that may even have had a transformative effect on the self-perception of the lairds of each shire through its requirement for annual elections.²² At the same time, there was an unprecedented growth in the number of parliamentary burghs, and a significant expansion in the peerage.²³ Thus, by the end of the sixteenth century the crown was actively seeking counsel more frequently than ever before and involving a wider range of people than had ever been involved before.

This approach is also found outwith secular politics. From the fall of the Arran regime in November 1585, James sought consensus in ecclesiastical affairs through conferences with cross-sections of the ministry, while he often received delegations from the general assembly expressing concerns on a range of issues.²⁴ Even after what Julian Goodare recently argued was an attempted *coup d'état* in December 1596 involving some prominent ministers, consultation continued.²⁵ James became more closely involved, attending general assemblies

²¹ A. Grant, 'The Development of the Scottish Peerage', *SHR*, 57 (1997), 37-62; J. Goodare, 'The Admission of Lairds to the Scottish Parliament', *English Historical Review*, 116 (2001), 1103-33, esp. 1103; K. M. Brown, 'The Reformation Parliament', in K. M. Brown and R. Tanner (eds), *The History of the Scottish Parliament, Volume 1: Parliament and Politics in Scotland, 1235-1560* (Edinburgh, Edinburgh University Press, 2004).

²² A. R. MacDonald, 'Scottish Shire Elections: Preliminary Findings in Sheriff Court Books', *Parliamentary History*, 34 (2015), forthcoming.

²³ MacDonald, *Burghs and Parliament*, p. 16; Donaldson, *Scotland: James V-James VII*, pp. 217-22.

²⁴ MacDonald, *Jacobean Kirk*, chs. 2-3.

²⁵ Goodare, 'The Attempted Scottish *Coup* of 1596'.

and holding regular meetings to discuss ecclesiastical reforms. Although he was determined to rein in the more extreme elements of the ministry, he included them in the process. This is exemplified in the personnel of the commission of the general assembly, a standing committee that had liaised with central government since the early 1590s. It had come to prominence immediately before the attempted *coup* and was consequently disbanded.²⁶ Its replacement, appointed by the king in May 1597, consisted of 14 people, 10 of whom had served on the previous commission, indicating a genuine desire to achieve control through consultation rather than overt coercion.²⁷ Annual general assemblies continued and James met regularly with the commission of the assembly and larger, representative groups of ministers.²⁸ A scheme for ecclesiastical representation in parliament, approved by the assembly in 1600, resulted from at least five conferences involving the king, the commissioners of the assembly and representatives from regional synods. The new parliamentary bishops were to be accountable to the general assembly, confirming the pervading conciliar mood.²⁹ Whatever would become of the episcopate after 1603, they were

²⁶ MacDonald, *Jacobean Kirk*, pp. 64-72; National Library of Scotland, 'Copie of the minute buik of the actis maid be the commissioneris of the generall assembly', Wodrow Quarto, xx, no. 18.

²⁷ *Acts and Proceedings of the General Assembly of the Kirk of Scotland*, ed. T. Thomson, 3 vols (Edinburgh, Bannatyne Club, 1839-45), III, 927-8.

²⁸ MacDonald, *Jacobean Kirk*, ch. 4.

²⁹ A. R. MacDonald, 'Ecclesiastical Representation in Parliament in Post-Reformation Scotland: The Two Kingdoms Theory in Practice', *Journal of Ecclesiastical History*, 50 (1999), 38-61, at 56-7.

the product of a careful consultative process marked by a determination on the king's part to find a solution that was acceptable to the majority.

Although less politically-charged, interactions between the convention of royal burghs and the crown lend further support to this characterisation of Scotland's pre-union government. Consisting of commissioners from every parliamentary town, the convention also sent regular delegations to the king and privy council, instructed the council of Edinburgh to raise issues with the king and charged it to intercede with him regarding matters arising between conventions.³⁰ The annual general convention also delegated issues to 'particular conventions' of selected burgh commissioners who were charged to speak to the king and privy council about such things as a major reform of customs duties in 1597.³¹ This was no mere acknowledgement of the king's status while expecting only to speak to the privy council, as we shall see when the burghs had the opportunity to express their feelings in the aftermath of his departure.

II

It has been argued recently that 1603 was of limited significance for the government of Scotland because prolonged royal minorities had made Scotland uniquely accustomed to

³⁰ *Records of the Convention of the Royal Burghs of Scotland*, ed. J. D. Marwick and T. Hunder, 7 vols (Edinburgh, Scottish Burgh Records Society, 1866-1918) (henceforth, *RCRBS*), vols I-II.

³¹ *RCRBS*, II, 14-15, 19-21.

operating without an adult monarch's direct involvement.³² It is hard to see how a kingdom can become accustomed to minorities, given how few prominent politicians from one minority tended to survive until the next. Moreover, there is a world of difference between a distant adult monarch who wants to be involved in decision-making and a minor who has no formal role in government but might later revoke acts carried out in his name. The parliamentary record shows just how different the transition to absentee monarchy looks from previous transitions to minorities. Far from being characterised by a sudden reduction in formal consultation, as occurred after 1603, the minorities of James V, Mary and James VI witnessed a marked increase in the frequency with which the estates met, in what Julian Goodare has described as 'a more collective style of government ... with a more active role for parliaments and councils'.³³ That is unsurprising, since regents lacked the innate authority of a monarch, so had to put considerable effort into consensus-building and, when minorities ensued, court life tended to be 'scaled back'.³⁴ In 1603, court life in Scotland did cease because the court was now located in the south of England. There was, however, no

³² J. Wormald, 'The Happier Marriage Partner: The Impact of the Union of the Crowns on Scotland', in G. Burgess, R. Wymer and J. Lawrence (eds), *The Accession of James I: Historical and Cultural Consequences* (Basingstoke, Palgrave, 2006), p. 70.

³³ See *RPS*: during the minority of James V (1513-28) there were 17 meetings of the estates; during his personal reign (1528-42), there were 8; during Mary's minority/absence (1543-61) there were 26; during her personal reign (1561-67) there were 6; during James's minority (1567-85), there were 37; Goodare, *Government of Scotland*, p. 130.

³⁴ A. Blakeway, *Regency in Sixteenth-Century Scotland* (Woodbridge, Boydell, 2015), ch. 4, esp. pp. 156-7, and conclusion.

compelling reason to alter institutional systems of counsel-giving. Yet they demonstrably changed and, as this section shows, they did so dramatically.

The most significant difference between minorities and absentee government was that there were no regents after 1603. It has been suggested that James felt that his privy council could carry on without him and, anticipating the creation of an integrated British state, it would have been a waste of effort to adapt Scottish government only to do away with it a few years later.³⁵ There is, however, a hint that some restructuring was contemplated, although it remains frustratingly difficult to discern how it was expected to function. The crucial figure in this process is John Graham, third earl of Montrose. Normally Montrose is portrayed as an old, sick man shifted into an honorific position to make way for a more able administrator: Maurice Lee dismissed Montrose as ‘an elderly nonentity’ on his appointment as chancellor at the age of 50 in January 1599.³⁶ Yet Montrose’s age was not unusual: in 1604 he was replaced by Alexander Seton, earl of Dunfermline, who was 49 and retained the office until his death in 1622 at the age of 68, while George Home, the earl of Dunbar, was 50 when he came to prominence in government in 1606. Counsellors were, after all, meant to be experienced men, whereas youth was a stock characteristic of ‘evil’ counsellors and favourites. If Montrose was indeed a nonentity, why make him chancellor at all, given that the office had been vacant for over three years by 1599, suggesting that James saw no

³⁵ M. Lee, ‘James VI’s Government of Scotland after 1603’, *SHR*, 55 (1976), 41-53, at 42; discussed at greater length in *Government by Pen*, ch. 2; for discussions of James’s plans for a ‘perfect’ (i.e. complete) union, see B. Levack, *The Formation of the British State: England, Scotland and the Union* (Oxford, 1987), chs. 1-2, esp. pp. 1-5, 27-8, 42; and B. Galloway, *The Union of England and Scotland, 1603-1608* (Edinburgh, 1986), ch. 1.

³⁶ Lee, *Government by Pen*, p. 8; NRS, Montrose Muniments, GD220/1/15/6.

pressing need to fill it? As chancellor, Montrose was the king's commissioner to parliament in 1604, but soon afterwards became 'commissioner generall within our kingdome of Scotland'.³⁷ With an annual fee twice that of Dunfermline, his replacement as chancellor, over whom he retained precedence, this was a significant role.³⁸ His name appears first in privy council sederunts and it was to him that royal letters were addressed for investing new peers.³⁹ Evidence of his wider role is thin, so it remains hard to answer definitively the questions raised by the creation of this new office. He does not seem to have had a viceregal remit and certainly did not have the same authority as a regent. Yet it is tempting to wonder how government might have developed had he had authority to summon conventions of the estates and general assemblies, and to hold conferences with ministers of the church and others.⁴⁰ It would not *necessarily* have restored an open and consensual approach. After all, the obvious comparisons with Thomas Wentworth, earl of Strafford in Ireland, and John Maitland, duke of Lauderdale under Charles II, hardly suggest that such an arrangement was guaranteed to prosper. Nevertheless, the apparently limited nature of Montrose's role furthered the closing down of routes of counsel.

³⁷ NRS, Montrose Muniments, GD220/1/A/5/6/1, GD220/1/A/5/6/3.

³⁸ NRS, Montrose Muniments, GD220/1/A/5/6/2; NRS, Treasurer's Accounts, E21/78, fo. 42r.

³⁹ NRS, Lothian Muniments, GD40/7/27 (a commission to inaugurate Lord Newbattle as earl of Lothian).

⁴⁰ For regents' powers, see Blakeway, *Regency in Sixteenth-Century Scotland*, *passim*, esp. pp. 4-5, which argues that regency 'provided a quasi-monarchical ... model of government' and regents were expected 'to behave like adult monarchs'.

A hint of Montrose's style and the potential that existed briefly for the role to become more than it did is found at the parliament of 1604 which passed an act excluding the church from the remit of the Anglo-Scottish union commission.⁴¹ It was introduced during the session and Montrose, exercising the royal power to assent to acts by touching them with the sceptre, approved it without the king even knowing of its existence. It was a wise move for an 'elderly nonentity', for its rejection would have done untold harm to the union scheme before negotiations had even begun. It is a rare example of the crown handling ecclesiastical affairs with tact in the immediate post-union period. Only one year of James's personal reign had passed without an assembly (1599, during efforts to reach an agreement on parliamentary representation). After union, although there were no ongoing consultations, there was a sudden collapse in the frequency of general assemblies. None met in 1603, one planned for 1604 was postponed, in spite of clerical unease at the prospect of closer Anglo-Scottish union and complaints that the bishops required annual review and instruction as to how to behave in parliament. Opposition grew while the commissioners of the assembly, also requiring annual review, began to operate as an ecclesiastical privy council, with James declaring that their decisions could not be appealed to a general assembly.⁴²

The aftermath of an assembly scheduled to meet at Aberdeen in 1605 illustrates the problems inherent in the flow of advice under absentee monarchy. Cancelled by the crown at the last minute, it was nevertheless attended by nearly 30 ministers from 14 presbyteries, one of whom passed on news of the assembly to Chancellor Dunfermline at Edinburgh, who approved their formal constitution and immediate dissolution. Alexander Straiton of Lauriston, James's commissioner in ecclesiastical affairs, had been at Aberdeen, had allowed

⁴¹ *RPS*, 1604/4/21.

⁴² Calderwood, *History*, VI, 391-2.

the ministers to constitute an assembly, thought better of it and retrospectively issued a proclamation forbidding it. It was essential that his version of events reached the king first. It did. James was furious and six of the ministers were convicted of treason.⁴³ How different it would have been if Lauriston, Dunfermline and the ministers had been able to meet James together. In the years that followed, the episcopate took over from the commission of the assembly and controlled the election of commissioners to general assemblies, which were cajoled and intimidated into passing the crown's measures, culminating in the notorious Perth assembly of 1618. By that time, James had resolved to dispense with general assemblies altogether: the creation of the prerogative Court of High Commission in 1610 had stripped them of their judicial functions, and in 1617 he sought parliamentary acknowledgement of his right to determine doctrine and worship without consulting beyond the episcopate in order to strip the assembly of its spiritual functions. In a letter to the assembly of 1618, the last before 1638, he declared himself 'fully resolved never in our time to have ... any more assemblies'.⁴⁴ Charles I was merely following his father's lead in believing that the church should be run by the king through bishops, without general assemblies.

While the convention of burghs does not present as dramatic a picture of change, it too struggled to adjust to absentee monarchy. In 1604, its advice to its representatives on the union commission made the burghs' opposition to constitutional change clear: Scotland's currency, laws and parliament must be retained. Most striking was the instruction 'to regrait the lois sustenit be Scottis men be his majesteis absence, and thairfoir to desyre that his

⁴³ MacDonald, *Jacobean Kirk*, pp. 110-17.

⁴⁴ J. Spottiswoode, *History of the Church of Scotland*, 3 vols (Edinburgh, Spottiswoode Society, 1847-51), III, 252.

majestie may remayne in Scotland yeirlie ane quarter of the yeir'.⁴⁵ Although this vanished without trace and even James's more modest promise to return every three years was never fulfilled, it highlights the burghs' conviction that the ability to give counsel directly to the monarch was essential for good government. They tried to adapt, attempting to establish a resident agent at court, but that did not function satisfactorily and was used only sporadically, providing a pale shadow of the access they had previously enjoyed.⁴⁶ In 1617, they sought to take advantage of the king's one return visit by appointing a delegation to present him with a list of grievances.⁴⁷ This failed, although they tried again with Charles I in 1633 with similar results.⁴⁸ The enduring expectation that the king should be willing to listen is clear, but it is equally clear that both James and Charles did not share their subjects' views of what counsel was and how it should operate.⁴⁹

That there is little to be said of conventions of estates after 1603, given there were so few of them, epitomises the reduction in opportunities for giving and receiving counsel.⁵⁰ To be sure, this did not cause a catastrophic loss of confidence in the government, nor did it provoke cries of anguish from those who had once been so frequently summoned. In the

⁴⁵ *RCRBS*, II, 190.

⁴⁶ *RCRBS*, II, 379-80, 406; III, 49.

⁴⁷ *RCRBS*, III, 39-40.

⁴⁸ *Records of the Convention of Royal Burghs, 1555; 1631-48*, ed. A. R. MacDonald and M. Verschuur (Woodbridge, Scottish History Society, 2013), pp. 126-8.

⁴⁹ For an English perspective on the same difference of view, see J. Guy, 'The Rhetoric of Counsel in Early Modern England', in D. Hoak (ed.), *Tudor Political Culture* (Cambridge, Cambridge University Press, 1995).

⁵⁰ For a detailed discussion, see MacDonald, 'Consultation and Consent', 293-5.

longer term, however, it had consequences for how government in general and parliament in particular functioned. After 1603, parliaments met almost as often as before (there were seven between 1585 and 1603 and another seven in the 22 years thereafter) but were more contentious and harder to manage.⁵¹ As well as being a regular forum in which counsel was given and received, conventions had provided a mechanism for building consensus in preparation for parliaments. Thus the king and those around him could gauge the country's mood so that there were no unpleasant surprises in parliament. After 1603, such preparatory consultation simply stopped.⁵²

Maurice Lee characterised government after 1603 as working flexibly and responsively in the absence of the monarch, with the privy council modifying royal policy and taking independent decisions.⁵³ This portrayal of government is incomplete, for it omits the range of mechanisms that had been used previously to gather counsel. In this context, it is instructive to return to the concept of personal monarchy and its corollary, absentee monarchy. Julian Goodare has questioned the validity of 'absentee monarchy', pointing out

⁵¹ J. Goodare, 'The Scottish Parliament of 1621', *Historical Journal*, 38 (1995), 29-51; V. Wells, 'Constitutional Conflict after the Union of the Crowns: Contention and Continuity in the Parliaments of 1612 and 1621', in K. M. Brown and A. J. Mann (eds), *The History of the Scottish Parliament, Volume 2: Parliament and Politics in Scotland 1567-1707* (Edinburgh, Edinburgh University Press, 2005); MacDonald, 'Deliberative Processes', 46-8.

⁵² MacDonald, 'Consultation and Consent', 300-2.

⁵³ Lee, 'James VI's Government of Scotland after 1603'.

that the tensions that grew up in Scotland were also experienced in England.⁵⁴ Yet it remains useful in a Scottish context because of the profound changes in the mechanisms for giving and receiving counsel that resulted from the king's departure. Before James's personal reign, the political community had become accustomed to frequent, formal consultation. James broadened that consultative process, and his enthusiasm for personal involvement produced a polity in which stakeholders expected to be asked what they thought and to be able to say it to the king's face. It may have been James's very desire to be personally involved that led to the collapse of that system after 1603. Perhaps he stopped calling consultative meetings because he was disinclined for them to be happening without him. Perhaps the distractions of governing multiple kingdoms meant that he was simply unable to give Scottish affairs the attention that he had previously granted to them. Privy councillors and officers of state may have revelled in their new-found freedom to operate without interference from the king or the estates, or maybe they felt that it was not their place to tell the king to call them and that they had no authority to do so on their own initiative. Whatever the cause, James and his Scottish privy council sought counsel from a drastically reduced number of people after 1603. This was not necessarily a disaster for Scotland but (and here it is tempting to resort to the traditional comparison between James and Charles) it worked for James to a degree because he knew Scotland and those in charge of it and failed for Charles because he did not. Yet, while it is wrong to draw too clear a path between 1603 and 1638 (for it is hard to imagine James doing all that Charles did to bring about his own downfall), it is equally difficult to imagine that Charles would have gone so badly off the rails in Scotland had he inherited

⁵⁴ Goodare, *Government of Scotland*, p. 109; see also S. Boardman and J. Goodare, 'Introduction: Kings, Lords and Jenny Wormald', in *Kings, Lords and Men*, pp. 1-17, at p. 10; Wormald, 'The Happier Marriage Partner'.

triannual conventions of the estates and annual general assemblies. These could have provided early warning signs of growing tensions, and guaranteed routes to counsel the king when those running through the court and privy council failed. Cutting off these alternative channels heightened tensions because it became more and more difficult to hope that the voice of wise counsel might reach the king and make him rethink his policies.

III

The enduring watershed status of 1625 has led to a relative lack of attention to the later years of James's reign and to the moment of transition itself.⁵⁵ A letter written in 1625 by John Leslie, earl of Rothes, to Sir Robert Ker of Ancrum, a gentleman of Charles I's bedchamber, offers striking insights into expectations about the giving and receiving of counsel. Tellingly within the context of this discussion, it has a particular focus upon institutional mechanisms.⁵⁶ It has been cited by Peter Donald, Maurice Lee, Allan Macinnes and Julian Goodare but, while Macinnes recognised its significance, Goodare alone did it justice, outlining how it shows how Rothes was 'trying to restore an older pattern of politics' which recognised 'the ancient right of the nobility to offer counsel'.⁵⁷ Lee cited it only to note

⁵⁵ Lee, *Government by Pen*, ch. 6; Wormald, *Court, Kirk and Community*, pp. 191-4; Donaldson, *James V-James VII*, ch. 12.

⁵⁶ *Correspondence of Sir Robert Kerr, First Earl of Ancrum, and his Son, William, Third Earl of Lothian*, ed. D. Laing, 2 vols (Edinburgh, Roxburghe Club, 1875), I, 35-8.

⁵⁷ J. Goodare, 'Scottish Politics in the Reign of James VI', in J. Goodare and M. Lynch (eds), *The Reign of James VI* (East Linton, Tuckwell Press, 2000), pp. 50-1; Macinnes, *Charles I and the Making of the Covenanting Movement*, p. 40.

Rothés's hope that Charles might change ecclesiastical policy, implying that the Five Articles of Perth were an exceptional error on James's part.⁵⁸ Donald mentioned it in a discussion of the rise of the episcopate which, he averred, irked only certain 'sensitive individuals', emphasising the contrast between the reigns and reinforcing the notion that James's ecclesiastical policy had been the only problem of his later years.⁵⁹ Macinnes and Goodare, however, noted that it mentions civil as well as ecclesiastical policy and indicates the presence of deeper problems than others have acknowledged.⁶⁰

Written on 14 April, less than three weeks after James's death, the letter shows that the problems of Charles's reign were anticipated at the outset, and were underpinned by perceived failures in the consultative process. As the sixth earl of Rothés, the writer was one of the ancient nobility, a natural born counsellor. The letter shows that he possessed what John Guy described as a feudal-baronial understanding of counsel, a belief in what Roger Mason terms aristocratic or baronial conciliarism in which the nobility had 'a political birthright that entailed both a duty to counsel the king and a responsibility to ensure the welfare ... of the realm as a whole'.⁶¹ The recipient, Ker of Ancrum, was a gentleman of Prince Charles's bedchamber from 1613 who had spent most of his time since 1603 at

⁵⁸ Lee, *Road to Revolution*, p. 10.

⁵⁹ Donald, *An Uncounselled King*, p. 11.

⁶⁰ Macinnes, *Charles I and the Making of the Covenanting Movement*, p. 40.

⁶¹ R. A. Mason, 'Beyond the Declaration of Arbroath: Kingship, Counsel and Consent in Late Medieval and Early Modern Scotland', in Boardman and Goodare (eds), *Kings, Lords and Men*, pp. 278-80; Guy, 'Rhetoric of Counsel', pp. 297-9, revealing the shared aristocratic understanding of counsel and the role of parliament.

court.⁶² Neither born nor elevated to greatness, he epitomised the courtiers through whom prominent Scots communicated with the king after the union. Anna Groundwater has shown how important it was to have such an intermediary, especially for those peers reluctant to travel to court.⁶³ It is true that similar means of giving and receiving counsel had existed for as long as there had been royal courts, but as Keith Brown has argued, they were less effective for Scots after 1603 because court brokers ‘ceased to offer counsel that reflected the interests of the wider noble society from which they were drawn’.⁶⁴ It is easy to see how that situation arose. The distance between counsellors and their intermediaries combined with the infrequency of meetings of the estates led to intermediaries being more attuned to the views of those around them than of those seeking to work through them, and they did not operate as a mechanism for *seeking* counsel.

That Rothes’s advice was unsolicited and his correspondent had no intention of passing it on gets to the heart of the problem. The king chose those around him and they chose what to pass on to him, knowing that they would be doing themselves no favours if they were the bearers of criticism. Kevin Sharpe argued that James’s approach to counsel in an English context changed profoundly, beginning with a refreshing openness, only for it to be eclipsed by the rise of Buckingham who came to control access.⁶⁵ For Scots who did not travel regularly to London (and few did) that narrowing of access began in 1603, after which the only way to get views to the king was through a much more indirect and difficult route

⁶² A. Groundwater, ‘From Whitehall to Jedburgh: Patronage Networks and the Government of the Scottish Borders, 1603-1625’, *Historical Journal*, 53 (2010), 871-93, at 888.

⁶³ Groundwater, ‘From Whitehall to Jedburgh’; Brown, *Noble Power*, pp. 193-5.

⁶⁴ Brown, *Noble Power*, p. 207.

⁶⁵ Sharpe, ‘Crown, Parliament and Locality’, pp. 328-30.

than had previously prevailed, as Brown has argued.⁶⁶ Thus intermediaries at court were not ‘conduits for communication, information and advice’, they were valves: everything that the king wanted to flow outwards could do so but only those things that intermediaries deemed appropriate could penetrate from the outside.⁶⁷ Rothés’s letter alluded to an instance of this, referring to a previous occasion when Ancrum had failed to pass advice to Prince Charles, excusing himself on the grounds that the time was not right because of Charles’s ‘obedient disposition to all things which did pleas his ... father to establich’. Ancrum’s caution was wise, for he would have known that, in 1621, James had had Charles’s chaplain, George Hakewill, and secretary, Thomas Murray, imprisoned for trying to lobby the king through his son. Murray had advised Hakewill not to show Charles a tract critical of the Spanish match but was ignored and the prince passed it straight to his consequently furious father.⁶⁸ Although Rothés affected to have inferred that things might be easier once James was dead, Ancrum had no more intention of passing on Rothés’s views to King Charles than to Prince Charles. Rothés was impotent, unable to influence policy because he lacked a reliable broker at court and reluctant to go to court to cultivate the necessary connections. Crucially, the letter reveals that the succession of Charles I did not usher in a new era of restricted counselling, for that had already begun.

Its contents repay closer examination. Rothés’s principal concern was to ensure a good start to the reign, upon which hinged ‘the good or misery of our stat[e]’. He was

⁶⁶ Brown, *Noble Power*, ch. 6, esp. pp. 187, 193, 195, 204, 207.

⁶⁷ Groundwater, ‘From Whitehall to Jedburgh’, 880.

⁶⁸ J. Reid-Baxter, “‘Scotland will be the Ending of all Empires’: Mr Thomas Murray and King James VI and I”, in S. Boardman and J. Goodare (eds), *Kings, Lords and Men*, pp. 324-5.

anxious that the right counsel reached the king's ear, even (perhaps especially) if it did not accord with the views of Charles who, he feared, had a 'disposition towards such courses' that Rothes opposed. Later in the letter, Ancrum was advised to act for 'the good and peac[e] of this countray [and] of his Majesty' to ensure that, by 'the first fruits of his actiones' the king 'suld gain our affectiones'. The changes that Rothes was proposing would ensure 'the greitist affectioun a peopl[e] can cary to ther prince'. He also referred critically to policies that 'bread greit greif and discontentment amongst the best both in plac[e] and knowledg[e]'. While such expressions were commonplaces of contemporary discourse and merely meant 'people who agree with me', they hint at a broader group of discontented nobles and others, the identity of some of whom could be guessed on the basis of their opposition to the crown in the parliament of 1621.⁶⁹

Rothes made it clear that tension had arisen because of failures in institutional means of giving counsel, as well as ecclesiastical changes. He listed the 'streining of the ordinar customes of counsall ... the imposing of certain novations upon the kirk ... and the impairing of the libertys of the nobility both in counsell and parliament'. The first may, in part, refer to the growing episcopal presence on the privy council. Charles I has traditionally been criticised for packing his council with bishops: although there were only nine among the 47 active councillors in the later 1630s, they alone could constitute a quorum, and only ten to fifteen councillors were normally present at any one time.⁷⁰ Yet here again he was following

⁶⁹ Goodare, 'The Scottish Parliament of 1621'.

⁷⁰ D. Stevenson, 'Charles I, the Covenants and Cromwell, 1625-1660', in B. Harris and A. R. MacDonald (eds), *Scotland: The Making and Unmaking of the Nation c.1100-1707, Volume 2: Early Modern Scotland: c.1500-1707* (Dundee, Dundee University Press, 2007), p. 39; Lynch, *Scotland*, p. 268; Mitchison, *Lordship to Patronage*, p. 36; Macinnes, *Charles I and*

his father's lead, for James had appointed six episcopal councillors by 1625. That picture of continuity has recently been reinforced by Sally Tuckett, who also showed that half of the bishops made privy councillors by Charles had been appointed by his father.⁷¹ The second criticism refers to the much-resisted Five Articles of Perth, while the last relates to increasing crown control of the agenda and deliberative processes of parliament, witnessed in 1617 and 1621. In both, the crown tried to dictate the membership of the lords of the articles and, in 1621, severe restrictions were placed upon the customary deliberative meetings of individual estates.⁷²

The sentiments of Rothes's letter were strikingly echoed in the 'Balmerino Supplication' of 1633, in which he also played a part. Drawn up after a parliament at which opposition to royal policy had been steamrollered, it was an attempt by leading opposition figures to explain their behaviour in that parliament.⁷³ It claimed to be 'a carefull indeavour to

the Making of the Covenanting Movement, p. 51; *Register of the Privy Council of Scotland*, ed. D. Masson *et al.*, 2nd ser., 8 vols (Edinburgh, 1899-1908), II, viii-ix.

⁷¹ S. Tuckett, 'The Scottish Bishops in Government 1625-1638', in Adams and Goodare (eds), *Scotland in the Age of Two Revolutions*, pp. 59-78, esp. pp. 60-4.

⁷² Calderwood, *History*, VII, 250, 492; Spottiswoode, *History*, III, 240-1; *State Papers and Miscellaneous Correspondence of Thomas, Earl of Melros*, ed. J. Maidment, 2 vols (Edinburgh, Abbotsford Club, 1837), II, 416; MacDonald, 'Deliberative Processes', 37-8, 47-8.

⁷³ For the supplication, see J. Row, *History of the Kirk of Scotland from the Year 1558 to August 1637*, ed. D. Laing (Edinburgh, Wodrow Society, 1842), pp. 376-81. For the parliament of 1633 and its aftermath, see J. R. Young, 'Charles I and the 1633 Parliament', in Brown and Mann (eds), *The History of the Scottish Parliament, Volume II*.

conserve to your Majestie the heartie affection of a great many of your Majestie's subjects' to avoid a situation that 'would diminish in the hearts of many loyall subjects the affection to your Majestie', precisely the justification given by Rothes for writing to Ancrum in 1625.

The 1633 supplication also reiterated Rothes's view of 1625 that freedom of speech in council and parliament were essential to good government and that those whose views did not prevail should not be censured. Although the concept of free speech in the Scottish parliament was neither as developed nor as clearly articulated as in England, it was evidently understood as essential to the giving of counsel.⁷⁴ For Rothes, the nobility were duty-bound to give honest counsel as part of the collective endeavour of maintaining the good and peace of the country. He was drawing upon shared conceptions of counsel to express genuine anxiety that, if 'the nobilitys wonted libertys in counsell and parliament' were not restored and the 'corruptiones' introduced by James not removed, 'the good and peac[e] of this countray [and] of his majestie' would be at risk.⁷⁵

The focus upon institutional means of giving counsel in both the letter of 1625 and the supplication of 1633 demonstrate continuities between the later years of James VI and the crisis of the later 1630s.⁷⁶ For Rothes, and others whose existence is hinted at, the problems that would develop under Charles were already present under James. Their fears in 1625 were not born of concerns that Charles would take things in a new direction, instead they were worried that Charles would continue as his father had begun. Therefore it was essential that

⁷⁴ Row, *History*, p. 377. For free speech and counsel in England see D. Colclough, *Freedom of Speech in Early Stuart England* (Cambridge, Cambridge University Press, 2005), ch. 3.

⁷⁵ Guy, 'Rhetoric of Counsel', pp. 297-9.

⁷⁶ See also J. Goodare, 'The Scottish Convention of Estates of 1630', *SHR*, 93 (2014), 213-39, at 227-33.

Rothés's counsel got through: 'tym being precious befor the stamp of any bad impression which thos quho war exalted and beneficed be *the former corruptiones* will press to imprint'. This speaks to the existence of a 'court-country' divide that was blocking good counsel and allowing only its antithesis, flattery, to prevail.⁷⁷ Rothés implored Ancrum to make his best efforts to 'mov[e] a pacification of thos extremitys' resulting from ecclesiastical innovations and press for at least 'sum good appearances of the restauration of the nobilitys wonted libertys'.

While Rothés's stance is unsurprising, his diagnosis is significant: a toxic combination of ecclesiastical innovations, introduced without consultation, in the face of vocal opposition, along with the curtailment of opportunities for lay elites to give counsel through traditional institutional channels. The Balmerino supplication of 1633 would allude to that in dating the curtailment of parliament's freedoms to 1609. The General Assembly of 1638 took a similar view in annulling all acts of assemblies from the first post-union assembly of 1606 onwards.⁷⁸ In the 1630s, the opposition saw the problems of their day as stemming from failures in institutional systems for giving and receiving counsel which had their origins in the period immediately after 1603.

Keith Brown recently criticised Julian Goodare for focusing on 'institutional aspects of governance' too strongly in a book on early modern Scottish government.⁷⁹ Yet Brown's recognition of the shrinking of court-based counsel after the regal union may provide a

⁷⁷ J. Rose, 'Kingship and Counsel in Early Modern England', *Historical Journal*, 54 (2011), 47-71, esp. 49. The emphasis in the quote from the letter is added.

⁷⁸ Macinnes, *Charles I and the Making of the Covenanting Movement*, pp. 188-9.

⁷⁹ K. M. Brown, 'The Government of Scotland 1560-1625' (review), *SHR*, 96 (2007), 137-41, at 139.

context for the reconciliation of their positions. When the court became less accessible after 1603, institutional forums for giving counsel could have compensated. Instead they too were eroded and Rothes and others set such store by them in their pleas for reform because they were all they had left. It is tellingly ironic that Rothes tried and failed to use a courtier intermediary to press for reforms in institutional mechanisms for counsel and it is hard to avoid the conclusion that it was destined to fail. In 1625, Rothes did not seriously anticipate the revolution of 1637-8 in which he was a prominent player, nor did he foresee such a revolution in 1633 when he joined another heartfelt plea to the king to listen to good counsel. English historians see 1603 as a more significant transition than 1625 because it marked the advent of a new dynasty. They are comfortable in identifying the origins of many of the problems of the reign of Charles I in that of his father, albeit there remains disagreement over the relative merits of the two.⁸⁰ For Scotland, an assessment of how counsel was given and received urges the conclusion that 1603 was of considerably more significance than 1625, and while Scottish historians cannot talk of ‘the early Stuart period’, it is hard to ignore the continuities that it encapsulates.

⁸⁰ For the more recent debate on Charles I, see Mark Kishlansky’s reassessment of Charles I in ‘Charles I: A Case of Mistaken Identity’, *Past & Present*, 189 (2005), 41-80, the responses by Clive Holmes, Julian Goodare and Richard Cust, *Past & Present*, 205 (2009), 175-212, and Kishlansky’s reply at 212-37.